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THE DIRECTV GROUP INC
PATENT DOCKET ADMINISTRATION RE/R11/A109
P O BOX 956
EL SEGUNDO, CA 90245-0956

EXAMINER

JANVIER, JEAN D

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Me

Office Action Summary

Application No.

09/492,725

Applicant(s)

ARSENAULT ET AL.

Examiner

Jean Janvier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-34 and 41-47 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 18-34 and 41-47 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

After the Board Decision

The Board Decision, issued on Nov 05, 2004, had affirmed the rejection of claims 35-40 under 35 USC 102(e) over Hite and reversed the rejection of claims 18-34 and 41-47. Thus, in response to the Board Decision, prosecution is herein being re-opened, under 37 CFR 1.198, to further address claims 18-34 and 41-47, the only claims now pending in the Instant Application (See MPEP § 1002.02(c) and MPEP § 1214.07).

Further, all arguments are moot in view of new grounds of rejection.

DETAILED ACTION

Specification

Status of the claims

Claims 18-34 and 41-47 are currently pending in the Instant Application following the Board Decision.

Claim Objections

Claim 43 is objected to because of the following:

Concerning claim 43, lines 1 and 2, “wherein each of the advertisement objects include” should apparently be --wherein each of the advertisement objects includes--.

Appropriate corrections are requested.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 18-23, **24-34** and 41-47 are rejected under 35 USC 102(e) as being anticipated by Gerace, WO 97/41673.

As per claims 18-23, **24-34** and 41-47, Gerace discloses a system for displaying advertisements to a user, over the Internet, based on the user's preferences (interests, habits or psychographic or behavioral profile or specification information) **and demographic information**. The user's psychographic profile and demographic profile are collected from the user during a registration or an enrollment or sign-up process. Thereafter, the psychographic profile is constantly refined using the user's monitored viewing habits and computer activity. Further, content of categories of interest **and display format** in each category are included in the psychographic profile as a result of the user's viewing or browsing activities (specification information identifying the type of information item the user is interested in). Consequently, targeted advertisements are appropriately displayed to the selected user via his computer screen, based on the user's psychographic and demographic profile, when he logs into the system to request a primary content and wherein **these advertisements are constantly being modified in**

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accordance with the user's interaction or viewing activities (viewing of agate information) or psychographic or behavioral profiles.

(p. 33: 31 to p. 34: 9; p. 26: 7-20; p. 18: 22 to p. 19: 4; p. 30: 23 to p.31:8) and (See abstract; figs. 3B-3F; p. 3: 2 to p. 5: 19; p. 13: 1-22; p. 39: 22 to p. 45: 7).

Furthermore, Gerace discloses that each advertisement from an advertiser has one or ad packages or **ad objects**. In each ad package or **ad object 33b**, there is shown a start and end dates and times (schedule of display) and pricing for the ad package or ad object. **Each ad belongs to a series of ads** (ad listing). For serially displayed ads, the maximum number of views in a series to be displayed in a particular sequence, per user and per day, is also indicated. For instance, **ad object 33d of fig. 5D indicates a series ID and a series sequence** (i.e. the ordering of the ad in a series) **while referencing to an ad series object 33c of fig. 5C, which shows in turn the intended targeted demographic profiles**, products and services offered by the sponsor, etc. Moreover, the system compiles statistical reports that show the success or the failure of a particular ad campaign. (fig. 5A-5D; page 22: 36 to page 24: 15).

In general, specific to desired ads, each sponsor or advertiser or merchant has one or more **Ad Series Objects 33c** (FIG. 5c). **An Ad Series Object 33c** (FIG. 5c) provides an indication of whether a given advertisement is singly or serially displayed (groups of ads), the category of the information, and the demographic group of users (configuration data) pre-requested by the sponsor to be shown that advertisement. In a preferred embodiment, the sponsor specifies in Ad Series Object 33c the required and/or preferred psychographic and/or demographic criteria and relative importance (e.g., weight) with respect to each criterion (configuration). Further, the sponsor specifies in Ad

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Series Object 33c a minimum total weight of criteria (local condition) to be met by a user to qualify the user to view the advertisement or ad series (one or more groups of ads).

Also Ad Series Object 33c includes a reference or a link to an Ad Package Object 33b (via an ad package identification or Ad Package ID or Ad Object 33b of fig. 5B; **one object is linked to another**), the hour of the day in which the ad/ad series is to start and end, the days of the week on which the ad/ad series is to be displayed, and the beginning and ending dates and times of the ad/ad series (**schedule related to a display of one or more series of ads**). Also for serially displayed advertisements, Ad Series Object 33c indicates the maximum number of views in a series to be displayed per user and per user per day. Following a display of ads to the targeted group, a Detailed Package Report provides, **to the sponsor, information on individual ad packages, including showing the ads included in the package with video and audio portions intact (The ad object has included therein a link to an image object and audio object whose associated content is being called from a designated location during execution of a module by a processor to display the image on the user's interface or output an audible signal thereat)**. The demographic profiling requested and demographic breakdown of success with respect to a control group are also provided in the Detailed Package Report. Also the number of hits and click- throughs purchased and achieved are designated in the Detailed Package Report.

Each ad forms a corresponding Ad Object 33d as illustrated in FIG. 5d. For a given advertisement, Ad Object 33d indicates to which series the advertisement belongs. To effectuate this, the Ad Object 33d indicates a series ID which references an Ad Series Object 33c, and indicates a series sequence (i.e., the ordering of the ads

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in a series or the priority of display of ads in a series). Ad Object 33d also includes the starting and ending time for display of the ad each day (scheduling object). Ad Object 33d also provides references to graphic references (image object or image file), sound, and multimedia portions of an advertisement. A text-only format of an advertisement is used for users receiving messages on their own E-mail service or on a text-only browser (e.g., Links systems for VAX/VMS operating systems) rather than through the messaging feature of program 31; in other words, the ad is displayed to a user in accordance with a local condition or display interface capability). Here, Ad object 33d (directory) of fig. 5D refers or calls graphic references (or image objects (which may represent a directory containing one or more image files stored on the server or a different server), Ad Series Object 33c (directory) of fig. 5C linked via package ID to Ad Package 33b of fig. 5B (directory containing a plurality of files), which calls via Sponsor ID Sponsor Object 33a of fig. 5A (Sponsor directory comprising a plurality of files). When a view op occurs or when a user having a profile matching the advertiser's specifications visits the system, or system web site, program 31 retrieves and displays the related advertisement, based on local conditions or the user's interface capability, by executing **Ad Object 33d of fig. 5D**, which calls, among other things, therefrom graphic references or image objects, Ad Series Object 33c, which in turn refers to Ad Package Object 33b, which refers to Ad Sponsor Object 33a, which in turn calls via User ID User Object 37a of fig. 3B for completion. This is well established in the area of Object Oriented programming (e.g. C language). This data structure model is widely used in organizing directories and files stored in a Hard disk drive under MS DOS and MS Windows Operating or Interface. Except for the display of the

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advertisement and related images, texts, sounds, etc., the execution or operation is transparent to the user.

See figs. 5A-5D; page 22: 25 to page 24: 15.

Further, a Demographic Response Rates Report is generated where all ad packages of a sponsor or selected ones are compared. In particular, the ad success by the sponsor-targeted demographic groups is compared. A reporting subroutine 41 of program 31 also calculates a regression on the targeted demographic groups for the ads, and the results of the regression calculation are used to suggest other demographic characteristics that are important factors in the number of click-throughs and/or number of purchases (Other demographic groups, following the reporting, may be considered in order to achieve the number of click-throughs and/or generated purchased). The advertiser may also run a complete regression report for all or certain ad packages.

Additionally, appropriate hardware and software used in the system are disclosed on page 6: 22 to page 12: 36 and figs. 1-4. For example, the present system uses a software program or module 31 operated on and connected through a server 27 to the Internet for communication among the various networks 19 and/or processors 11, 13, 15, 17 of fig. 1 and other end users connected through respective servers 25. In the preferred embodiment, the server 27 is a Digital Equipment Corp. (DEC) Alpha server cluster (e.g., 2400-8000 Series), or a multiplicity of similar such servers. Server 27 runs Oracle 2.0 Web server as HyperText Transfer Protocol (HTTP) server software to support operation of present system program 31 (p. 6: 22-32). Also for each user, there are a User Computer Object 37b and a User Interface Object 37c (fig. 3C). **For each user's**

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computer, User Computer Object 37b provides an indication of the limitations and capabilities of the user's computer system. For instance, User Computer Object 37b lists whether the user's system provides audio and/or video display, and what Web browser software is utilized by the user's system (User's interface sophisticated level) and or local condition is used in determining which advertisement is to be displayed to the user and in what format). An outline of the table/data set of a User Computer Object 37b in the preferred embodiment is illustrated in FIG. 3c (p. 11: 10 to p. 12: 2).

In the preferred embodiment, program 31 is implemented as an object oriented program as discussed above with reference to FIGS. 3a through 5b. Each object is formed of data and subroutines (methods) for acting on the data. The data is preferably stored in tables and each table is formed of a multiplicity of records or fields of information. The information held in a record in respective tables of the objects is illustrated in FIGS. 3b through 5b and discussed above. It is understood, however, that other program means, techniques, data structures and program designs for system module 31 are suitable (p. 10: 4-18).

(Page 4: 9-21; page 5: 10-19; page 9: 26 to page 10: 3; page 25: 1-20; page 28: 25 to page 29: 12; **page 29: 13-34**).

Additionally, an advertiser can create a second (new) advertising package (Package Object 33b), subsequent to creating a first Ad Package Object 33b, the advertiser submits the relevant data including graphics or video or image to the system.

In response, program 31 creates a new Ad Package Object 33b and links it to the

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company's existing Sponsor Object 33a. From the data entered or submitted by the advertiser or sponsor into a form, main routine 39 (second software module among a plurality of modules used in the execution of the tasks disclosed herein) completes the corresponding Ad Package Object 33b, Ad Series Object 33c and Ad Object 33d of figs. 5B, 5C and 5D respectively. In turn, program 31 displays a price quote for running the ad and the sponsor-user clicks on the "accept" button. This advertisement package becomes available as soon as the sponsor-user has clicked on the "approved" button. **And the new or second ad package is used to update a database file storing the advertiser's advertising data or to simply replace an exiting (old version) Ad Package Object 33b (p. 36: 31 to p. 37: 31).**

Finally, in order to achieve rapid and direct benefits from the performance report or detailed reporting of program 31, program 31 allows the sponsor or advertiser to enter new advertising contracts online in response to customers' reactions. For instance, with respect to reporting, if the reports of program 31 show that customers respond to still advertisements more often than moving ones, bright colors more often than darker ones, graphics rather than text, then large text rather than small, detailed text or square advertisements rather than bar style ones, such data are relayed or conveyed to the sponsors/advertisers for further marketing analysis. Furthermore, if a sponsor recognizes that, for example, 25-35 year-old women tend to purchase frequently and respond to their still, forest green colored advertisements most often, then program 31 enables associated sponsors to place that type of ad in front of the subject target market segment in real-time during a reporting cycle. Thus, program 31 enables updating of the Sponsor and Ad Objects 33 during a reporting cycle (**that type of ads becomes a high priority and**

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therefore replaces stored or existing (or similar) low priority ads; in other words, the Ad Objects will be updated-p. 38: 34 to p. 39: 20).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 18, 19, 21, 22, 23, 24, 25, 26, 30, 31, 32, 33, 34, 41, 42, 43, 46 and 47 are rejected under 35 U.S.C. 102(e) as being anticipated by Van Hoff et al., US Patent 5, 959, 623.

As per claims 18, 19, 21, 22, 23, 24, 25, 26, 30, 31, 32, 33, 34, 41, 42, 43, 46 and 47, Van Hoff discloses a system for displaying a plurality of advertisements from a list to

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a user, wherein software module or Applets (informational programs) 310, running on the user's computer, related to the advertisements include methods for displaying the images 312 and any associated audio data 312, representing one or more advertisements for products or services, in the display window of the client computer or user's computer.

The applets define the operational parameters related to how long (schedule) images, representing for example ads, are displayed, in what sequence (order), how they appear and disappear or fade or flash (col. 4: 45-56; col. 7: 10-33; fig. 3). A program interpreter, executed on the client computer, performing the tasks of displaying a designated adlist from the set of designated adlists in accordance with the selection method, repeats the display process until all ads from the designated adlists specified in the selection method are displayed. After completing the execution or displaying of a given adlist class, the interpreter looks to the selection method (as depicted in the applet) to identify the next adlist for display. In one embodiment, the same adlist can be redisplayed upon reaching the last advertisement in the adlist, especially if there is no additional designated adlist as specified in the selection method. In an alternative embodiment, a sequence of adlists is displayed. This process repeats itself, as the user visits or browses more web pages, until the user logs off from the Internet. Further the user may turn off the Ad Window displaying an advertisement from an adlist by quitting the execution at any time during the execution process by the interpreter (col. 6: 62-64; col. 7: 21-43).

Further, a user using over the network or Internet 106 a client computer 100, initiating execution of the Internet access program or HotJava 110 (related to the client local browser), to access or request information (advertisements) on the network (col. 5:

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28 to col. 6: 4). In another embodiment, the HotJava browser program 110 can automatically push or launch an AdWindow application, displaying a first Adlist from a list of adlists in an Ad Window, when the user logs in without the intervention of the user. In other words, at the initiation of the local browser (when the user logs in), the Ad Window, displaying an ad, may be automatically pushed or executed (fig. 2; col. 6: 4-7; col. 6: 37-48; col. 7: 60-62).

In addition, the system may display updated information or ad object related to an ad during a user current log-in session **by deleting an old ad object, from the object repositories as appropriate, and replacing it with a new ad object to thereby free up memory from the server** (Replacing an old ad object with a new one-col. 7: 44-56).

In general, a method and apparatus for displaying user selectable advertising information or other user selectable informational images on a host computer. In a preferred embodiment, a user accessing the World Wide Web via a browser application is concurrently displayed user selectable advertising information on a predefined portion of the host computer screen. In this embodiment, an advertising application is executed concurrently with the browser application. **The advertising application is an object-oriented program that includes a data structure for storing methods and data pointers. The methods define the creation of the dedicated portion of the user screen display for displaying the advertising information, methods for selecting the particular information to be displayed, as well as methods for accessing additional information related to the displayed advertisement images. The data pointers point to the particular advertising services, topical informational services or other services, which have been selected by a user for display. The advertising images are displayed at all times a user is**

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logged onto the World Wide Web. In another embodiment, the user may turn on or off the informational images as desired (col. 2: 8-29).

An Ad Window Application program 118, which includes a method and data pointers for displaying informational images on a portion of a client user's display 107 of fig. 1 and has associated with it a user selected list of preferred advertising lists 119a and 119b (a user's ads or adlists of interest or preference), each of which is essentially a **URL reference to a list of advertisements maintained by a corresponding advertisement provider** Also object repository 124 stores objects 126 on the client's memory (col. 3: 13-22).

Referring now to FIG. 2, the data structure associated with the Ad Window application program is shown. Here, the Ad Window application program is a bytecode program written in the Java programming language. The Ad Window application includes methods 200 and a user established list 210 of preferred advertising lists (ads of interest to the user) comprising a plurality of pointers 212-1 through 212-n associated with informational image lists, which have been selected by the user. The methods 200 include a display method 202 and a selection method 204. The display method 202 includes methods **for dedicating a portion of the screen display of the client computer 100, as well as methods for displaying lists of informational images (Ad lists) in the dedicated space**. The selection method 204 includes methods for selecting which informational image lists are to be displayed in the dedicated space as well as other operational parameters (timing or scheduling, sequencing or ordering and the like) associated with the displayed information. In the preferred embodiment, the selection

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method includes a **pointer 206 to a first Ad list in the user established list 210 of preferred advertising lists**. For instance, two data pointers 212-1 and 212-2 associated with informational image lists 162 and 170 of fig. 3 are shown. **The pointers 212-1 and 212-2 point to the location, in this case to the server computers 104 memory, which contain the Ad lists, which are to be displayed in conjunction with the execution of the Ad Window application program on the client.**

Now, referring now to FIG. 3, the data structure for Ad lists 162 and 170 is shown. Ad list 162 includes a plurality of pointers 300-1 through 300-n and associated advertisement programs 302-1 through 302-n. **Each advertisement program 302 includes one or more applet(s) 310, images 312, audio data 314 and informational references 316**. Applet(s) 310 include methods for displaying the images 312 and any associated audio data 312 in the display window of the client computer. The applet(s) define the operational parameters associated with how long images are displayed, in what sequence, how they appear and disappear (fade or flash), as well as other display parameters if different from the default values set in the display method described above. **In the preferred embodiment, the images 312 are advertisements for products or services, and can include still pictures or video images. Audio data 314 includes voice, music or other audio signals for playback in coordination with the images 312 (col. 4: 1-56).**

Moreover, Informational references 316 of fig. 3 include methods for locating additional information related to the subject matter displayed by the images 312 and addressed by the audio data 314. In the preferred embodiment, **the informational**

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references take the form of a URL, which is linked, to a World Wide Web site 350, which contains more information 352 related to the product or service images displayed. In this embodiment, the applet(s) 310 include a method for performing a URL fetch of the information 352 located at the remote site. In this way, the image data 312 may be limited to introductory or "teaser" information, which includes an easy link to more information if the reader is so inclined (col. 5: 3-14).

Interpreter 114 of the client executes the selection method 204, locates the pointer 206, which indicates the first Ad list (in this case Ad List 1 (162)) in the list of preferred advertising lists 210 to be displayed (col. 6: 37-48). Ad window application program included in its list of preferred advertisement lists two entries for display Ad List 1 and Ad List 2. Accordingly, the secondary memory 108 as shown includes Ad Window object class 404, Ad List 1 object class 406, and Ad List 2 object class 408 stored within the class repository 120. In addition, instances of the Ad Window object class 412, Ad List 1 object class 414, and Ad List 2 object class 416 are shown stored within the object repository (col. 5: 43-54).

Conclusion

The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

US Patent 5,740,549 to Reilly discloses an information and advertising distribution system. A data server stores and updates a database of information items and

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advertisements. The information items and advertisements are each categorized so that each has an associated information category. Workstations remotely located from the data server each include a display device, a communication interface for receiving at least a subset of the information items and advertisements in the data server's database and local memory for storing the information items and advertisements received from the data server. An information administrator in each workstation establishes communication with the data server from time to time so as to update the information items and advertisements stored in local memory with at least a subset of the information items and advertisements stored by the data server. An information display controller in each workstation displays on the workstation's display device at least a subset of the information items and advertisements stored in local memory when the workstation meets predefined idleness criteria. At least a subset of the workstations include a profiler for storing subscriber profile data. The subscriber profile data represents subscriber information viewing preferences, indicating information categories for which the subscriber does and does not want to view information items. The information display controller includes a filter for excluding from the information items displayed on the display device those information items inconsistent with the subscriber profile data (See abstract).

US Patent 5,848,397 to Marsh provides a method and apparatus for scheduling the presentation of a continuously changing display to computer users, and is particularly well suited for use in an advertisement-supported e-mail service. An advertisement display scheduler resident on a user's computer receives advertisements from a server system over a network. Upon receipt, the advertisement display scheduler determines the

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priority of the advertisement and assigns it to one of a plurality of prioritized advertisement queues. Each queue is sorted according to predetermined scheduling criteria so that advertisements deemed "more important" are presented to a user first. The advertisement display scheduler logs statistical information relating to the presentation of advertisements for use in updating the scheduling criteria, and makes such statistical information available to the server system.

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (571) 272-6719. The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (571) 272- 6724.

Non-Official- 571-273-6719.

Official Draft : 571-273-8300

08/20/05

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Patent Examiner

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PRIMARY EXAMINER
